

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**VICTOR HUGO SILVESTRE  
GARCIA,**

*PLAINTIFF*

**vs.**

**S&F LOGISTICS, LLC et al.,**

*DEFENDANTS*

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**CIVIL ACTION –LAW**

**JURY TRIAL DEMANDED**

**NO: 5:21-cv04062-JMG**

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**PLAINTIFF’S MOTION TO COMPEL THE DEPOSITIONS OF DEFENDANTS**

NOW COMES Victor Hugo Silvestre Garcia, hereinafter called Plaintiff, and filed this, Plaintiff’s Motion to Compel the Depositions of Defendants, and in support thereof would respectfully show the following:

**I.  
PROCEDURAL HISTORY**

1.1 Plaintiff noticed the deposition of John McCollum for March 21, 2022. *See* Ex. A. Defendant McCollum failed to appear for this properly noticed deposition. *See* Ex. B.

1.2 Plaintiff noticed the deposition of a 30(b)(6) corporate representative for Defendant S&F Logistics for March 21, 2022. *See* Ex. C. A representative for Defendant S&F Logistics failed to appear at the properly noticed deposition. *See* Ex. D.

**II.  
ARGUMENT AND AUTHORITIES**

2.1 Pursuant to Fed. R. Civ. P. 30(a)(1), Plaintiff may, without leave, depose any party to this lawsuit. The Court should not prohibit the taking of party depositions absent unusual or

extraordinary circumstances. See, e.g. *Salter v. Upjohn Co.* 593 F.2d 649 (5<sup>th</sup> Cir. 1979). Plaintiff ought to be permitted to depose John McCollum, the defendant driver.

2.2 Plaintiff also seeks to compel corporate level depositions of a Defendant in this case. Rule 30(b)(6) provides that a party may direct a notice of deposition to a corporation, which must then designate one or more officers, directors, or other persons to testify on its behalf about information known or reasonably available to it. Fed. R. Civ. P. 30(b)(6). The rule streamlines the discovery process and places the burden of identifying responsive witnesses for a corporation on the corporation, which appears vicariously through its designee. *Armour Robinson v. Nexion Health at Terrell, Inc.*, 312 F.R.D. 438, 441 (N.D. Tex. 2014) (citing *Resolution Trust Corp. v. S. Union Co.*, 985 F.2d 196, 197 (5th Cir.1993).

2.3 Therefore, Plaintiff requests that this Court order the Defendants to appear for their deposition or, in the alternative, order that Defendants may not appear at the trial of this case to testify and that a default judgment be entered against Defendant for non-cooperation pursuant to Fed. R. Civ. P. 37(b)(A).

### **III. CONFERENCE**

3.1 Plaintiff's counsel has requested the deposition of Defendants on multiple occasions. Defendants' counsel has indicated he has been unable to obtain contact with his clients to present them for deposition. After reasonable effort, the parties were unable to resolve the dispute.

### **IV. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff asks the Court to compel the attendance of the party at a deposition at a time and location of Plaintiff's counsel's choosing; or, in the alternative, order that Defendants may not appear at the trial of this case to testify and that

a default judgment be entered against Defendant for non-cooperation pursuant to Fed. R. Civ. P. 37(b)(A).

**COWEN | RODRIGUEZ | PEACOCK**

By: /s/ Malorie Peacock  
Malorie Peacock  
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And

**FELLERMAN & CIARIMBOLI LAW, P.C.**  
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**CERTIFICATE OF SERVICE**

I, Malorie Peacock, Esquire, of the law firm of COWEN | RODRIGUEZ | PEACOCK, certify that I will cause a Notice of Filing of the foregoing Plaintiff's Motion to Compel the Depositions of Defendants, to be served on all parties listed on the Master Service List by electronic mail or facsimile, or by U.S. Mail where no electronic mail address or facsimile number was available.

I further certify that on June 7, 2022, the foregoing Mot Plaintiff's Motion to Compel the Depositions of Defendants, to be served on Defendants S&F Logistics, LLC, John McCollum by electronic mail and first-class mail.

**COWEN | RODRIGUEZ | PEACOCK**

By: /s/ Malorie Peacock  
Malorie Peacock  
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